

Artcraft Displays, Inc.; Freeman Decorating Company; C.D. Displays, Inc., d/b/a Freeman Design & Display Company; Transamerica Convention Service, Inc.; United Display, Inc. and Independent Decorators & Exhibit Employees Alliance Local No. 1, Petitioner. Case 23-RC-5049

August 30, 1982

SUPPLEMENTAL DECISION

BY CHAIRMAN VAN DE WATER AND
MEMBERS JENKINS AND HUNTER

On July 23, 1982, the National Labor Relations Board issued a Decision and Direction of Elections in the above-entitled proceeding.¹ The Decision described an appropriate bargaining unit for the employees of each Employer. The units included part-time convention and decorating employees "with over 1,000 hours seniority currently working, or available for work and who appear on the November 1981 seniority list of Sign and Pictorial Painters, Local Union No. 550, a/w International Brotherhood of Painters and Allied Trades." The Board's Decision also set forth the eligibility formula for determining which of those part-time employees are eligible to vote in the elections. The Decision stated that "[t]he part-time employees eligible to vote are thus those who have worked for a minimum of 15 days during the second calendar quarter of 1982."

Thereafter, the Petitioner, Independent Decorators & Exhibit Employees Alliance Local No. 1, and the Intervenor, Sign and Pictorial Painters, Local Union No. 550, affiliated with the International Brotherhood of Painters and Allied Trades, each filed a motion for clarification. The motions state that there are several interpretations of the Board's Decision regarding which part-time employees are eligible to vote, and request that the Board issue an order clarifying its Decision.

Pursuant to the provisions of Section 3(b) of the National Labor Relations Act, as amended, the National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

It appears that the problems of interpretation raised by the motions for clarification are rooted in the unit descriptions defining part-time employees as those with over 1,000 hours seniority currently working, or available for work and who appear on the November 1981 seniority list of Sign and Pictorial Painters, Local Union No. 550, a/w International Brotherhood of Painters and Allied Trades. This language should not have appeared in the unit

descriptions. It was inadvertently included because the units were so described at the hearing by the Petitioner, none of the other parties objected to the inclusion of such language,² and the briefs submitted by the parties did not address this issue at all. We therefore will delete the phrase "with over 1,000 hours seniority currently working, or available for work and who appear on the November 1981 seniority list of Sign and Pictorial Painters, Local Union No. 550, a/w International Brotherhood of Painters and Allied Trades," from the unit descriptions.

The appropriate units are therefore as follows:

All full-time and regular part-time convention and decorating employees employed by Artcraft Displays, Inc., at its Houston, Texas, operations, excluding office clerical employees, guards, watchmen, and supervisors as defined by the Act.

All full-time and regular part-time convention and decorating employees employed by Freeman Decorating Company, at its Houston, Texas, operations, excluding office clerical employees, guards, watchmen, and supervisors as defined by the Act.

All full-time and regular part-time convention and decorating employees employed by C.D. Displays, Inc., d/b/a Freeman Design & Display Company, at its Houston, Texas, operations, excluding office clerical employees, guards, watchmen, and supervisors as defined by the Act.

All full-time and regular part-time convention and decorating employees employed by Transamerica Convention Service, Inc., at its Houston, Texas, operations, excluding office clerical employees, guards, watchmen, and supervisors as defined by the Act.

All full-time and regular part-time convention and decorating employees employed by United Display, Inc., at its Houston, Texas, operations, excluding office clerical employees, guards, watchmen, and supervisors as defined by the Act.

The "1,000 hour" seniority requirement is the type of issue that is usually addressed in the context of an eligibility formula. After careful consideration, we have decided that the "1,000 hour" seniority requirement should be included as an alternative eligibility formula. This conclusion is based

¹ 262 NLRB 1233. An inadvertent error in the Decision and Direction of Elections was corrected by an Order from the Office of the Executive Secretary dated July 29, 1982.

² Although the attorney for the Freeman companies raised a question as to why "1,000 hours is an appropriate time," no evidence disputing its appropriateness was presented by the Freeman companies, nor any other party, nor was it subsequently objected to by any party.

upon the fact that no party objected to such a requirement at the hearing, or subsequently. The eligibility formula that appears in the Board's Decision is accurate. Thus, the part-time employees eligible to vote are "those who have worked for a minimum of 15 days during the second calendar quarter of 1982." However, also eligible to vote, in the alternative, are those part-time employees with over 1,000 hours seniority currently working, or available for work and who appear on the November 1981 seniority list of Sign and Pictorial Painters, Local Union No. 550, a/w International Brotherhood of Painters and Allied Trades.³

³ The Board relies upon the sound discretion of the Regional Director for Region 23 to determine whether the election should be postponed for

purposes of compiling new *Excelsior* lists and allowing the parties sufficient time to campaign.

Chairman Van de Water finds that the language that was inadvertently included in the descriptions of the bargaining units should be deleted from those descriptions. The Chairman would find, however, that the part-time employees eligible to vote are those with over 1,000 hours seniority currently working, or available for work and who appear on the November 1981 seniority list of Sign and Pictorial Painters, Local Union No. 550, a/w International Brotherhood of Painters and Allied Trades, and who have also worked for a particular employer in the second calendar quarter for at least 15 days. The Chairman believes that this formula is consistent with the Board's original Decision, and thus cannot affect the parties' expectations regarding the part-time employees who are eligible to vote.

The Chairman notes that using an alternative formula as provided by the majority may create confusion regarding in which unit or units an employee meeting the "1,000 hour" requirement, but not the "15 day" requirement, may vote.